

AMENDED IN ASSEMBLY JULY 15, 2009

AMENDED IN ASSEMBLY JUNE 24, 2009

AMENDED IN SENATE APRIL 14, 2009

Senate Joint Resolution

No. 1

Introduced by Senator Ducheny

January 27, 2009

Senate Joint Resolution No. 1—Relative to the Sales Tax Fairness and Simplification Act.

LEGISLATIVE COUNSEL'S DIGEST

SJR 1, as amended, Ducheny. Remote sales: use taxes.

This measure would urge members of the California congressional delegation to join in support of legislative action by the Congress of the United States to allow states to collect use taxes on remote sales and to ~~protect small businesses that use~~ *exempt from the use tax collection requirement small businesses that sell products over the Internet*, and for the President to sign that legislation.

Fiscal committee: no.

- 1 WHEREAS, United States Supreme Court decisions (National
- 2 Bellas Hess v. Department of Revenue (1967) 386 U.S. 753 and
- 3 Quill Corp. v. N.D. (1992) 504 U.S. 298) have interpreted the
- 4 Commerce Clause of the United States Constitution to deny states
- 5 the authority to require the collection of use taxes by out-of-state
- 6 sellers that have no physical presence in the taxing state; and
- 7 WHEREAS, The failure to collect use taxes on remote sales
- 8 through traditional carriers and the erosion of sales and use tax
- 9 due to electronic commerce threatens the future viability of the

1 sales and use tax as a stable revenue source for state and local
2 governments; and

3 WHEREAS, States and localities that use sales and use taxes
4 as a revenue source are not collecting revenue from a significant
5 share of electronic commerce; and

6 WHEREAS, Since 1999, state legislators, governors, local
7 elected officials, state tax administrators, and representatives of
8 the private sector have worked to develop a streamlined sales and
9 use tax system for the 21st century; and

10 WHEREAS, Between 2001 and 2002, 40 states enacted
11 legislation expressing the intent to simplify the states' sales and
12 use tax collection systems, and to participate in discussions to
13 allow for the collection of states' sales and use taxes; and

14 WHEREAS, The actions of the states provide justification for
15 Congress to enact legislation to allow states to require remote
16 sellers to collect the states' use tax; and

17 WHEREAS, The California State Legislature and our colleagues
18 in other states have shown the resolve to acknowledge the
19 complexities of the current sales and use tax system, have worked
20 with the business community to formulate alternative collection
21 systems, and have shown the political will to enact the necessary
22 changes to make the collection systems the law; and

23 WHEREAS, Until Congress and the President enact legislation
24 allowing states to require remote sellers to collect the states' use
25 tax, states are unlikely to close the revenue gap between what is
26 owed on remote transactions and what is collected; and

27 WHEREAS, When considering legislation, Congress should
28 ensure that any federal legislation enabling use tax collection on
29 remote sales does not adversely affect California small businesses
30 that sell remotely and should adopt a meaningful small business
31 exception from the legislation; and

32 WHEREAS, Members of the United States Congress have
33 termed this federal legislation as "fiscal relief for the states that
34 does not cost the federal government a single cent" and ensures
35 the viability of the sales and use tax as a state revenue source; now,
36 therefore, be it

37 *Resolved by the Senate and the Assembly of the State of*
38 *California, jointly,* That the California State Legislature calls upon
39 the members of our congressional delegation to join in support of
40 legislative action by the Congress of the United States to allow

1 states to collect use taxes on remote sales and ~~to protect small~~
2 ~~businesses that use the Internet; and be it further~~ *to exempt from*
3 *the use tax collection requirement small businesses that sell*
4 *products over the Internet; and be it further*

5 *Resolved*, That the California State Legislature urges the
6 President to sign into law legislation allowing for the collection
7 ~~of use taxes on remote sales and protect small businesses using~~
8 ~~the Internet, upon its passage by the Congress; of use taxes on~~
9 *remote sales and to exempt from the use tax collection requirement*
10 *small businesses that sell products over the Internet, upon its*
11 *passage by the Congress; and be it further*

12 *Resolved*, That the Secretary of the Senate transmit copies of
13 this resolution to the President and Vice President of the United
14 States, to the President pro Tempore of the United States Senate,
15 to the Speaker of the House of Representatives, to each Senator
16 and Representative from California in the Congress of the United
17 States, and to the author for appropriate distribution.